IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 934 of 1990

For Approval and Signature:

HON'BLE MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

PRESIDENT/SECRETARY, GUJARAT LAW SOCIETY

Versus

PROF.CHANDRASHANKER P BHATT & ORS.

Appearance:

MR DEEPAK G.SHUKLA for NANAVATI & NANAVATI for the Petitioner

Respondents Nos. 1-3 SERVED

MR LR PUJARI, AGP for Respondent No. 2

CORAM : HON'BLE MISS JUSTICE R.M.DOSHIT

Date of decision: 04/11/2004

ORAL JUDGEMENT

The petitioner challenges the judgment and order dated 8th August, 1989 passed by the Gujarat Affiliated Colleges Services Tribunal, Ahmedabad in Application

No.82/1987 in so far as the Tribunal has not issued direction to the State Government to sanction salary grant for the salary of the respondent No.1 teacher for the period from 1st September, 1984 to 31st October, 1984.

The petitioner is the Gujarat Law Society (hereinafter referred to as "the Society") registered as such and engaged in educational activities. The Society runs and manages C.U.Shah Arts College (hereinafter referred to as "the College") affiliated to the Gujarat University, the respondent No.3 herein (hereinafter referred to as "the University").

The respondent No.1 was employed by the Society as a teacher in the College. The respondent No.1 reached the age of superannuation on 31st August, 1984. On 28th July, 1984 the Executive Council of the University passed a resolution that the teachers in affiliated colleges who reach the age of superannuation in the middle of the academic term shall be continued in service till the end of the academic term. The teachers who reach the age of superannuation during the first academic term shall retire from service on 31st October. The teachers who reach the age of superannuation in the second academic term shall retire from service from 14th June at the end of the academic year. In view of the said resolution the respondent No.1 who had reached the age of superannuation on 31st August, 1984 was continued in service till 31st October, 1984. The State Government, however, did not sanction the salary grant for the months of September and October, 2004. Feeling aggrieved, the respondent No.1 filed Application No.82/1987 before the Tribunal for direction to the Society to pay the salary for the period from 1st September, 1984 to 31st October, 1984.

The said application was contested by the Society. The Society contended that the respondent No.1 was continued in service after he reached the age of superannuation till the end of the academic term, on condition that in case the State Government did not sanction salary for the said period as admissible for the purpose of grant, the respondent No.1 would not claim salary from the Society.

The Tribunal was of the opinion that the service condition of the teachers in the affiliated colleges were governed by the terms and conditions laid down by the

University. In view of the Resolution dated 28th July, 1984 passed by the Executive Council of the University, the Society was obliged to continue the respondent No.1 in service till 31st October, 1984 and to pay salary to the respondent No.1 for the period from 1st September, 1984 to 31st October, 1984. The Tribunal also noted that the State Government had passed Resolution on 31st December, 1986 to allow salary grant in case of teachers in affiliated colleges who are continued in service after they attained the age of superannuation till the end of the concerned academic term i.e. till 31st October or 14th June as the case may be. The said Resolution being prospective in its application, the Tribunal held that the same would not apply in the case of the respondent No.1. The Tribunal, however, made recommendation to the State Government to hold the salary of the respondent No.1 upto 31st October, 1984 admissible for the purpose of grant. Feeling aggrieved, the Society has preferred the present petition.

Learned advocate Mr.Shukla has appeared for the Society. He has relied upon the judgment and order dated 19th December, 1996 of this Court (Coram: S.K.Keshote,J.) passed in the case of Ahmedabad Education Society and others v/s. Bhaskerbhai M.Desai and others (Special Civil Application No.6894/1985 and other petitions). In similar set of facts, this Court allowed the said Special Civil Applications and declared that the concerned teachers were entitled to salary for extended date of retirement beyond actual date of superannuation with reference to the term or academic year and the State Government was under legal obligation to provide grant to the petitioner institutions for making payment of salaries to the said teachers for the period in question.

I shall follow suit. The petition is allowed. It is directed that the salary due and payable to the respondent No.1 for the period from 1st September, 1984 to 31st October, 1984 shall be admissible for the purpose of salary grant. The petitioner Society shall pay the said salary to the respondent No.1 within three weeks from today. The State Government/Director of Higher Education shall reimburse such amount to the petitioner Society as admissible salary grant. Such reimbursement shall be made within six weeks from the date the petitioner Society prefers bill for such salary grant. The petition is disposed of in the above terms. Rule is made absolute. The parties shall bear their own cost. The Registry shall send the writ forthwith.

(Ms. R.M.Doshit, J.)

/sakkaf